

Introduced by Senator Alquist

February 9, 2005

An act to add Section 859.5 to the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 171, as introduced, Alquist. Interrogation: recording.

Existing law provides that under specified conditions the statements of witnesses, victims, or perpetrators of specified crimes may be recorded and preserved by means of videotape.

This bill would require law enforcement officials, as defined, who interview or interrogate persons accused of, arrested for, or charged with, a crime to institute procedures whereby the interview or interrogation is simultaneously recorded and preserved by means of videotape, videodisc, or any other means of preserving audio and video. By imposing these new requirements on local law enforcement, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to require the creation of an electronic record of an entire
3 custodial interrogation in order to eliminate disputes in court as
4 to what actually occurred during the interrogation, thereby
5 improving prosecution of the guilty while affording protection to
6 the innocent.

7 SEC. 2. Section 859.5 is added to the Penal Code, to read:

8 859.5. (a) Law enforcement officials who interview or
9 interrogate persons accused of, arrested for, or charged with a
10 crime shall institute procedures whereby the interview or
11 interrogation is simultaneously recorded and preserved by means
12 of videotape, videodisc, or any other means of preserving audio
13 and video.

14 (b) For the purposes of this section, “law enforcement official”
15 includes any officer of the police, sheriff, highway patrol, or
16 district attorney, and any peace officer included in Chapter 4.5
17 (commencing with Section 830).

18 SEC. 3. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.